

**Probate Committee
Judicial Conference of Indiana**

April 5, 2002
Minutes

1. Members present. The following members of the committee were present: Peter J. Nemeth, Wayne J. Lennington, Barbara Arnold Harcourt, and Chris D. Monroe, Chair.
2. Staff present. The following staff members from the Judicial Center were present: Jenny Bauer and Michelle Goodman.
3. Approval of minutes. The committee approved the minutes from the September 12, 2001 meeting. Judge Monroe noted that the meeting scheduled for December did not take place.
4. New Staff Attorney. Jenny Bauer introduced Michelle Goodman as the new staff attorney at the Judicial Center who will be working with this committee. Michelle has worked previously at the Judicial Center as a CLEO Intern.
5. Presentation on will searches. Attorney Sonja Kriegsmann made the presentation to the committee and provided materials concerning will searches. Ms. Kriegsmann stated that the problems concerning will searches usually involve interested persons trying to locate a will that they believe is located in a safe deposit box owned solely by the decedent. The procedure that Ms. Kriegsmann developed for her client was based on I.C. § 29-1-7-3. She indicated that there is no guidance in the Code concerning these searches or how any items found should be handled. She proposed that legislation regarding this area would be the best solution. She has already discussed the issue with the Indiana Banker's Association. Judge Monroe indicated that this issue could be addressed in the revised version of the Probate Deskbook. Judge Monroe also indicated that the committee would have to discuss supporting legislation with the Chief Justice. Ms. Kriegsmann stated that documents other than wills should also be addressed (i.e. life insurance policies, burial deeds and information). After a lengthy discussion, the committee decided to take this issue back to their counties in order to obtain more input in this area and bring that information back to the committee. Michelle was asked to send these materials to the missing members of the committee so that they may do the same. The committee also wanted to see if the State Bar was interested in this area.
6. Legislative Update. Michelle reported to the committee that Senate Enrolled Act 77 (Uniform principal and income act) has passed this session and will be effective January 1, 2003. Also, Senate Enrolled Act 252 (Various probate and trust changes) passed and will be effective July 1, 2002. SEA 252 includes provisions concerning powers of attorney, paternity affidavit, liability of nonprobate transfers for creditor claims and statutory allowances, etc.
7. ISBA report. Judge Nemeth attended the last meeting of the Probate, Trusts, and Real Property section of the Indiana State Bar in South Bend. Judge Nemeth provided the committee with some materials and discussed some of the issues raised at that meeting including transfer on death estates. Judge Monroe reported that he spoke with Jeff Lind, Chair of the section, concerning placing a judge from this committee on their board. Mr. Lind indicated that the section was rewriting the bylaws and would consider this request. The next meeting will be

Saturday, July 13, 2002 at the Sheraton at Keystone in Indianapolis. Judge Monroe indicated that he plans to attend the July meeting.

8. Probate Code Study Commission. The next Probate Code Study Commission meeting has not been scheduled. Michelle contacted Legislative Services to be placed on the notification list and will forward any information received to the committee.
9. Research Issues. Michelle reported that Mike McMahon had researched resignation of guardian under I.C. §29-3-12-4(a) and Deskbook § 2.62(B)(5) and based on his research he thought that the committee should reassess the wording in the Deskbook. Michelle also reported that she had researched an issue concerning the lack of representation for petitioner at commitment hearings (Deskbook §6.09, I.C. § 12-26-2-5).
10. Deskbook Update. Judge Monroe indicated that assignments were made at the September 2001 meeting and the goal was to distribute the revised Deskbook in September 2003. Michelle had prepared a list of 1999 – 2001 legislation that effects parts of the Deskbook to assist the committee. Michelle also indicated that the Maximum Fee Schedule, which is summarized in the Deskbook, might also need to be reviewed. Judge Monroe indicated that rough drafts of Deskbook assignments should be complete by September 2002 and the final draft by June 2003. Judge Monroe stated that Judge Goodman from Marion County was going to be contacted about assisting the committee with reviewing the mental health section of the Deskbook. Michelle will follow up with Judge Goodman. Michelle was also asked to locate an electronic version of the Deskbook and provide copies of that to each committee member to assist in making the revisions before the June meeting.
11. Additional items. Judge Monroe wanted to know what the committee thought about allowing prosecutors the ability to view mental health dockets in order to make prosecuting decisions. Jenny indicated that Administrative Rule 9 might address it and that she would contact Ann O'Connor, Public Access Counselor, for more information.
12. Next meeting. The next meeting is scheduled for June 21, 2002 at 1:30 p.m. at the Judicial Center. It was brought to the attention of the committee that June 21 is also the last day of the Juvenile Court Annual Meeting in Nashville. Michelle was asked to contact the committee to determine if June 21 was still a good date and report back to Judge Monroe.

Respectfully submitted,

Michelle C. Goodman
Staff Attorney